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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,968	02/02/2006	Hideji Wakabayashi	285445US2PCT	9436

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EXAMINER	
TRINH, SONNY	
ART UNIT	**PAPER NUMBER**
2618	

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	04/20/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 04/20/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/566,968	WAKABAYASHI, HIDEJI	
	Examiner	Art Unit	
	Sonny TRINH	2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 February 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *19-21 and 26* is/are allowed.

6)☒ Claim(s) *1,2,5,6, 9-18,22-25* is/are rejected.

7)☐ Claim(s) *3,4,7 and 8* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. **Claims 1-2, 9-12, 14-16, 22-25** are rejected under 35 U.S.C. 102(e) as being anticipated by Khan (U.S. Patent Number 7,079,856).

Regarding **claim 1**, with reference to figures 1-3, Khan discloses a communication terminal (UE in figure 1) comprising: overflow estimation means estimating a simultaneous transmission, to a base station (column 3 line 58 to column 4 line 35), of uplink data and an information signal related to downlink packet data received from said base station; and transmission signal control means controlling transmission of said information signal in response to the result of estimation of said overflow estimation means (abstract, column 2 line 66 to column 3 line 43).

Regarding **claim 2**, Khan further discloses that the transmission signal control means stops transmitting said information signal (abstract, "...STOP data flow control command..." figures 1, 3).

Regarding **claim 9**, Khan further discloses that the retransmission stop signal transmission means transmitting a retransmission stop signal making said base station stop retransmitting the downlink packet data before transmission or after transmission of said uplink data on the basis of the result of estimation of said overflow estimation means (column 3 lines 12-44).

Regarding **claim 10**, Khan further discloses an instruction signal instructing said base station to control transmission of the downlink packet data is transmitted before transmission or after transmission of said uplink data on the basis of the result of estimation of said overflow estimation means (abstract).

Regarding **claim 11**, with reference to figure 1, Khan discloses a communication terminal (figure 1, UE) comprising: overflow estimation means estimating a simultaneous transmission of uplink data and a communication quality signal to a base station; and transmission signal control means controlling transmission of said communication quality signal in response to the result of estimation of said overflow estimation means (abstract, column 3 lines 12-44).

Regarding **claim 12**, Khan further discloses the transmission signal control means stops transmitting said communication quality signal (figure 1, abstract, column 3 lines 12-44).

Regarding **claim 14**, Khan further discloses the steps of posting to the base station a repetitive transmission of said communication quality signal a prescribed number of times, wherein said information signal is transmitted repetitively after the post of said posting means (figure 2, column 5 line 53 to column 6 line 46).

Regarding **claim 15**, Khan further discloses the instruction signal instructing said base station to control transmission of downlink packet data is transmitted before transmission or after transmission of said uplink data on the basis of the result of estimation of said overflow estimation means (abstract, column 3 lines 12-44).

Regarding **claim 16**, with reference to figure 1, Khan discloses a communication terminal (figure 1, UE) comprising an overflow estimation means (abstract) estimating a simultaneous transmission, to a base station, of uplink data and an information signal related to downlink packet data received from said base station (column 1 lines 28-59); and transmission signal control means controlling transmission of the uplink data in response to the result of estimation of said overflow estimation means (abstract, column 3 lines 12-44).

Regarding **claim 22**, with reference to figure 1, Khan discloses a communication system comprising a base station (NODE-B) and a communication terminal transmitting/receiving (UE) data to/from said base station (abstract), wherein said base station has transmission/receiving means transmitting downlink packet data ("HSDPA" column 1) to said communication terminal while receiving an information signal related to said downlink packet data from said communication terminal receiving said downlink packet data (abstract), and said communication terminal comprises: overflow estimation means estimating a simultaneous transmission of uplink data and said information signal to said base station, and transmission signal control means controlling transmission of said information signal in response to the result of estimation of said overflow estimation means (column 3 lines 12-44).

Regarding **claim 23**, with reference to figure 1, Khan discloses a communication system comprising a base station (figure 1, NODE-B) and a communication terminal (figure 1, UE) transmitting/receiving data to/from said base station, wherein said base station has transmission/receiving means transmitting downlink packet data ("HSDPA" column 1) to said communication terminal while receiving an information signal related to said downlink packet data from said communication terminal receiving said downlink packet data, and said communication terminal comprises: overflow estimation means estimating a simultaneous transmission of uplink data and said information signal to said base station, and transmission signal control means controlling transmission of the uplink data in response to the result of estimation of said overflow estimation means (abstract, column 3 lines 12-44).

Regarding **claim 24**, with reference to figure 1, Khan discloses a communication system comprising a base station (NODE-B) and a communication terminal (UE) transmitting/receiving data to/from said base station, wherein said base station has communication system change means changing the communication system of downlink communication to an optimum communication system on the basis of a communication quality signal indicating a communication quality state received from said communication terminal (figure 1, column 4 lines 36-60), and said communication terminal comprises: overflow estimation means estimating a simultaneous transmission of uplink data and said communication quality signal to said base station, and transmission signal control means, controlling transmission of said communication

quality signal in response to the result of estimation of said overflow estimation means (column 4 lines 36-60, abstract).

Regarding **claim 25**, with reference to figure 1, Khan discloses a communication system comprising a base station (figure 1, NODE-B) and a communication terminal (figure 1, UE) transmitting/receiving data to/from said base station, wherein said base station has communication system change means (inherent) changing the communication system of downlink communication to an optimum communication system on the basis of a communication quality signal indicating a communication quality state received from said communication terminal (column 4 line 36 to column 6 line 46), and said communication terminal comprises: overflow estimation means estimating a simultaneous transmission of uplink data and said communication quality signal to said base station, and transmission signal control means controlling transmission of said uplink data in response to the result of estimation of said overflow estimation means (abstract, column 4 lines 36-60).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. **Claims 5-6, 13, 17-18** are rejected under 35 U.S.C. 103(a) as being unpatentable over Khan in view of Hwang et al. (hereinafter "Hwang" U.S. Patent Number 7,082,108).

Regarding **claims 5 and 13**, Khan discloses the invention but does not explicitly disclose that the transmission signal control means controls transmission power for said information signal.

In an analogous art, Hwang teaches a method for controlling transmission power in a TDD CDMA communication system. Hwang further teaches that the transmission signal control means controls transmission power for said information signal (column 5 line 18 to column 6 line 46, specifically claim 13).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to incorporate the power control, as taught by Hwang to the system of Khan. The motivation for doing so would be to adjust the data rate by controlling the power output of the base station to minimize the overflow condition.

Regarding **claims 6 and 18**, Hwang teaches that transmission power for said uplink data is controlled by selecting a TFCI transmitting said information signal (figure 3, column 4 line 30 to column 5 line 16, claim 13) but does not explicitly disclose the a low transmission rate. However, since Hwang discloses the transmission rate can be controlled as noted above, it would have been obvious that the transmission rate can be increase or decrease depending on the requirement.

Regarding **claim 17**, Hwang teaches the transmission signal control means controls transmission power for said uplink data (column 5 lines 18-42).

Allowable Subject Matter

3. **Claims 3-4 and 7-8** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding **claim 3,** the applied references fail to disclose or render obvious the claimed limitations, specifically the transmitting of the information signal is stopped by selecting a TFCI not transmitting said information signal.

Regarding **claim 7,** the applied references fail to disclose or render obvious the claimed limitations, specifically wherein the communication terminal according to claim 5, comprising posting means posting to the base station a repetitive transmission of said information signal a prescribed number of times, wherein said information signal is transmitted repetitively after said post of the posting means.

4. **Claims 19-21, 26** are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding **claim 19,** the applied references fail to disclose or render obvious the claimed limitations of a communication terminal comprising: overflow estimation means estimating a simultaneous transmission, to a base station, of uplink data and an information signal related to downlink packet data received from said base station; uplink communication priority means controlling transmission of said information signal;

downlink communication priority means controlling transmission of said uplink data; storage means previously storing priority information indicating preference of uplink communication or downlink communication; and selection means selectively operating said uplink communication priority means or the downlink communication priority means according to the priority information stored in said storage means when said overflow estimation means estimates an overflow.

Claims 20-21 are allowed by virtue of their dependency on claim 19.

Regarding **claim 26,** the applied references fail to disclose or render obvious the claimed limitations of a communication system comprising a base station and a communication terminal transmitting/receiving data to/from said base station, wherein said base station has transmission/receiving means transmitting downlink packet data to said communication terminal while receiving an information signal related to said downlink packet data from said communication terminal receiving said downlink packet data, and said communication terminal comprises: overflow estimation means estimating a simultaneous transmission of uplink data and said information signal to said base station, uplink communication priority means controlling transmission of said information signal, downlink communication priority means controlling transmission of said uplink data, storage means previously storing priority information indicating preference of uplink communication or downlink communication, and selection means selectively operating said uplink communication priority means or the downlink communication priority means according to the priority information stored in said storage means when said overflow estimation means estimates an overflow.

CONCLUSION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sonny TRINH whose telephone number is 571-272-7927. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward URBAN can be reached on 571-272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

4/13/07

SONNY TRINH
PRIMARY EXAMINER